

**COMPLAINT INVESTIGATION SUMMARY**

**COMPLAINT NUMBER:** 1542.00  
**COMPLAINT INVESTIGATOR:** Jane Taylor-Holmes  
**DATE OF COMPLAINT:** March 6, 2000  
**DATE OF REPORT:** March 31, 2000  
**REQUEST FOR RECONSIDERATION:** no  
**DATE OF CLOSURE:** May 4, 2000

**COMPLAINT ISSUES:**

Whether the School City of Hammond violated:

- 511 IAC 7-10-3 with regard to the school's alleged failure to conduct an educational evaluation and convene a case conference committee meeting within forty instructional days of the date of written parental consent;
- 511 IAC 7-3-23 with regard to the school's alleged failure to provide the student a free appropriate public education; and
- 511 IAC 7-8-1(d) with regard to the school's alleged failure to permit the parent to review the student's educational records upon the parent's request, specifically the student's expulsion records.

During the course of the investigation additional issues were identified, which are:

Whether the School City of Hammond violated:

- 511 IAC 7-10-2(b) with regard to the procedures used to conduct a general education intervention, specifically delaying the parent's request for an educational evaluation;
- 511 IAC 7-10-3(i) with regard to the procedures used to conduct the student's multi-disciplinary evaluation;
- 511 IAC 7-12-1(g)(1) and (j)(3) with regard to the procedures used to determine the student's eligibility for special education and related services without benefit of a case conference committee meeting;
- 511 IAC 7-12-1(g)(6) with regard to the procedures used to determine if a causal relationship existed without benefit of a case conference committee before implementing the proposed disciplinary action;
- 511 IAC 7-12-1(e) with regard to conducting the student's case conference committee meetings without the required membership;
- 511 IAC 7-15-1 with regard to the procedures used by the school to suspend the student; and
- 511 IAC 7-15-2 with regard to the procedures used by the school to expel the student.

#### **FINDINGS OF FACT:**

1. The Student is 13 years old and is receiving special education and related services as a student with an emotional handicap ("EH") in an alternative program (the "Alternative Program") at a school outside of the Home School. The Student previously attended her Home School.
2. A *Request for General Education Intervention* ("GEI") form was completed on September 17, 1997. The form indicates that the referral for GEI was made by the Complainant and the teacher. The reasons for the referral were listed as frequent displays of inappropriate and disruptive behavior, and low academic performance.
3. In a letter dated October 9, 1997, to the assistant principal of the Student's Home School, the Complainant requested that the Student be evaluated for special education and related services because the Student had incurred several detentions, suspensions, and that there had been numerous phone calls from teachers regarding the Student's behavior. The Complainant added that she had also had meetings with various Home School personnel at different times to discuss the Student's behavior problems.
4. The Student's discipline record indicates that she incurred five days of in-school suspensions ("ISS") and three days of out-of-school suspensions ("OSS") from September 12, 1997 to October 7, 1997. She also incurred two verbal reprimands.
5. A *GEI Plan* was completed by the Home School personnel on October 15, 1997, with a date of November 16, 1997 to review the plan. The plan was signed by a review committee consisting of School personnel.
6. A *Referral for Educational Evaluation* was completed by various Home School personnel on November 17, and 25, 1997, and December 1, 1997. The principal of the Home School and a teacher signed the form on November 17, 1997.
7. A *Notice of Conference* dated December 17, 1997, was sent to the Complainant indicating that a case conference committee ("CCC") meeting was scheduled for January 9, 1998.
8. A CCC meeting was held on January 9, 1998. A *Pre-Evaluation Report* and a *General Case Conference Report* were completed. The *Pre-Evaluation Report* states that the Student's suspected disabilities were EH and LD. It also states that the consent for educational evaluation was completed. The *General CCC Report* states the purpose of the meeting was to review the educational program and progress of the Student. It also states that "teachers and parent would like the evaluation to be done." The Complainant signed an *Authorization for Release or Receipt of Information* at this CCC meeting so that the Home School could access the Student's records from the local mental health facility.
9. The Student was evaluated on February 9, 1998. The *Multidisciplinary Team Educational Evaluation Report* was written on March 23, 1998. The report states that the Student's "academic aptitude is in the average to low average range. It also states, "The multidisciplinary team sees her as a student at risk who has behavioral problems but does not view her as a student with an emotional handicap." The statement, "This student does not meet eligibility requirements" was checked and all members of the multidisciplinary team indicated by signature their agreement to this statement.
10. On February 23, 1998, the Student was given a ten-day out-of-School suspension, pending

expulsion for gross insubordination and fighting. The assistant principal of the Home School filed written charges and a request for expulsion on March 6, 1998, and an expulsion examiner was appointed.

11. The following documents were generated by the expulsion examiner:

- A Notice of Decision Regarding Continued Suspension From School;
- A Notice of Right to an Expulsion Meeting;
- A Waiver of Right to an Expulsion Meeting; and
- A description of the infractions as specified in the local school board policy.

None of the forms were signed by the Complainant, who contends that she did not receive anything from the School regarding the expulsion.

12. An expulsion meeting was held on March 18, 1998, and the expulsion examiner determined that the Student be expelled until January 1999. The expulsion examiner did provide for the Student's re-enrollment at the Home School in the fall of the 1998-99 school year if evidence could be shown that the Student received counseling during summer vacation.
13. A *Notice of Conference* dated March 26, 1998, was sent to the Complainant indicating that a CCC meeting was scheduled for April 3, 1998. The CCC meeting was then re-scheduled for April 7, 1998.
14. The CCC met on April 7, 1998, and the *CCC Report* states that the Student did not "meet the eligibility criteria for special education services at this time." An evaluation from the local mental health facility (the "Independent Evaluation") was presented and recommended that the Student be placed in a program for students with EH. The *CCC Report* also states that School personnel wanted to review the Independent Evaluation, and that the final determination of the Student's "eligibility for special education will be deferred...", and the CCC would re-convene on April 20, 1998. At this meeting, the Complainant was given a *Social/Developmental History* form and a behavior checklist to complete.
15. The Student was removed from her home by the local department of children and family services on April 9, 1998, and placed in an emergency shelter in another city. The Student was then moved to a residential facility in another state on May 8, 1998.
16. The CCC re-convened on April 20, 1998. The *CCC Report* states that the CCC "met on April 7, 1998, but all data had not been reviewed by the committee." The Complainant returned the completed *Social/Developmental History* and the behavior checklist at this time. After reviewing the Independent Evaluation and the completed information presented by the Complainant, the Student was found eligible for special education services in the EH program. Because the Student had been removed from her home and was not attending her Home School, it was determined that the CCC would reconvene to finalize the Student's program upon her release from the residential facility, and subsequent return to the Home School. There was no special education teacher licensed in the area of emotional handicaps at the CCC.
17. The CCC met on August 31, 1999, and developed an IEP for the Student. There was no special education teacher in attendance.
18. The CCC met on December 8, 1999 to review the Student's educational program. It was determined that the Student would attend the Alternative Program upon her discharge from the residential facility, which was scheduled for December 20, 1999. There was no special education teacher in attendance.

19. The Student began receiving special education and related services in the Alternative Program in January 2000.
20. The assistant principal of the school where the Alternative Program is located reported in a letter dated March 16, 2000, that the Complainant reviewed the Student's cumulative record on December 17, 1999, at 3:30 p.m. During this approximately 20 minute time period, there was no request by the Complainant to review the Student's expulsion record.
21. The assistant principal of the Home School reported in a letter dated March 17, 2000, that sometime in January 2000, while waiting for a meeting at the Home School, the Complainant requested a copy of the Student's expulsion record. The assistant principal informed the Complainant that it would take two days to retrieve and copy the documents. The assistant principal asked for the Complainant's phone number so that she could call the Complainant when the copies were ready. The Complainant was called within two days, but never returned the call or picked up the copied documents from the Home School.

#### **CONCLUSIONS:**

1. Findings of Fact #3, #8, #9, #13, and #14 indicate that more than 40 instructional days passed from the date that the Complainant requested the Student be evaluated to the date when the case conference committee met to discuss the evaluation results and determine eligibility for special education and related services. A violation of 511 IAC 7-10-3 occurred with regard to conducting the evaluation and case conference committee meeting within 40 instructional days from the Complainant's request.
2. Findings of Fact #3, #10 and #12 indicate that upon the Complainant's request to have the Student evaluated, the Student should have been afforded all rights and protections under Article 7; however, no educational services were provided to the Student as a result of the expulsion. A violation of 511 IAC 7-3-23 occurred with regard to providing the Student a free appropriate public education.
3. Findings of Fact #20 and #21 indicate that the Complainant only asked the assistant principal of the Home School for the Student's expulsion records; however, she did not return the phone message or pick up the copy of the documents when informed that they were ready. No violation of 511 IAC 7-8-1(d) occurred with regard to allowing the parent to review the Student's expulsion records.
4. Findings of Fact #2 through #9 indicate that the GEI procedures implemented by the Home School delayed the Student's educational evaluation and case conference committee meeting being conducted within the required 40 instructional days. A violation of 511 IAC 7-10-2(b) occurred with regard to holding the request for an educational evaluation in abeyance because of the GEI procedures.
5. Findings of Fact #9, #14, and #16 indicate that the Student was found ineligible without benefit of a comprehensive multidisciplinary educational evaluation. A violation of 511 IAC 7-10-3(i) occurred with regard to the information gathering procedures used to provide information in all areas of the Student's suspected disability.
6. Finding of Fact #9 indicates that the multidisciplinary team found the Student ineligible for special education and related services prior to the conduct of the CCC meeting to determine eligibility. A violation of 511 IAC 7-12-1(g)(1) and (j)(3) occurred with regard to the procedures used to determine

the Student's eligibility for special education and related services without benefit of a CCC meeting.

7. Findings of Fact #3, and #10 through #12 indicate that upon the Complainant's request to have the Student evaluated for special education and related services, the Student should have been afforded all rights and protections under Article 7. However, the CCC did not meet to determine if a causal relationship existed prior to expelling the Student. A violation of 511 IAC 7-12-1(g)(6) occurred with regard to the procedures used to conduct a CCC meeting before implementing a proposed disciplinary action.
8. Findings of Fact #16, #17, and #18 indicate that the CCC met on three occasions without all required members in attendance. A violation of 511 IAC 7-12-1(e) occurred with regard to the conduct of CCC meetings without the required membership.
9. Findings of Fact #3, #4 and #10 indicate that upon the Complainant's request to have the Student evaluated for special education and related services, the Student should have been afforded all rights and protections under Article 7. However, the Student was suspended for more than five consecutive days and more than 10 cumulative days. A violation of 511 IAC 7-15-1 occurred with respect to the procedures used to suspend the Student.
10. Findings of Fact #3, #10, #11, and #12 indicate that upon the Complainant's request to have the Student evaluated for special education and related services, the Student should have been afforded all rights and protections under Article 7. However, the CCC did not meet to determine whether a causal relationship existed, the Complainant did not receive any written notification of the expulsion proceedings or her rights, and the Student was not provided educational services as a result of the expulsion. A violation of 511 IAC 7-15-2 occurred with respect to the procedures used to expel the Student.

**The Department of Education, Division of Special Education requires corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The School City of Hammond shall:

1. Conduct an inservice training and/or otherwise notify all Home School professional personnel regarding GEI and the conduct of an educational evaluation, specifically addressing the procedures as indicated in 511 IAC 7-10-2((b) and 511 IAC 7-10-3(a) through (s). A copy of the inservice training agenda/notification, and a copy of all personnel trained/notified by signature and title shall be submitted to the Division.
2. Reconvene the Student's CCC for the following purposes:
  - to review the Student's *IEP* with all required members present; and
  - to determine the extent of compensatory services as a result of the denial of FAPE during the Student's expulsion.

A copy of the reviewed/revised *IEP* shall be submitted to the Division.
3. Conduct an inservice training and/or otherwise notify all Home School professional personnel regarding the CCC procedures as written in 511 IAC 7-12-1(e)(1) through (8), (g)(1) and (6), and (j)(3). A copy of the inservice training agenda/notification, and a copy of all personnel

trained/notified by signature and title shall be submitted to the Division.

4. Conduct an inservice training and/or otherwise notify all Home School professional personnel regarding the suspension and expulsion procedures, indicated in 511 IAC 7-15-1 and 511 IAC 7-15-2. A copy of the inservice training agenda/notification, and a copy of all personnel trained/notified by signature and title shall be submitted to the Division.

All documentation shall be received by the Division no later than May 5, 2000.